



## Advisory Council

TO THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES

### Advisory Council to the Division of Developmental Disabilities

January 16, 2020

10 a.m. – 12 p.m.

1056 Governor's Avenue, Dover, DE

<b>Council members</b>	Terri Hancharick, Chair
	Susan Pereira
	Angela Sipple
	Tom Rust
	Tim Brooks
	Gail Womble
	Stan Trier
<b>Staff Members</b>	Marie Nonnenmacher, Director
	Marissa Catalon, Deputy Director
	Cory Nourie, Director of Community Services
	Stacy Watkins, Asst. Director of Community Servs., Operations
	Kamin Giglio, Asst. Director of Community Servs., Policy & Planning
	Katie Howe, Director of Program Integrity
	Vicky Gordy, Executive Secretary (minutes)
<b>Other Attendees</b>	Terry Olson, The ARC of Delaware

#### Review of Previous Meeting Minutes

Notes from September 19, 2019 review included one minor edit. October 17, 2019 meeting minutes not available at time of meeting, therefore, review to occur at February 20, 2020 meeting.

#### Meeting Notes

##### Census

Revisions to census continue and plans to review with Advisory Council during the February 20, 2020 meeting continue.

##### DDDS FY2021 Budget Request Update

DHSS submitted budget request to executive branch and hearing was held in November. The Governor's Recommended Budget is expected to be submitted to legislature and released soon. DDDS plans to share details with Council once available.

DDDS Joint Finance Committee budget hearing is scheduled for February 27, 2020, beginning at 1 p.m. in the Joint Finance Hearing Room at Legislative Hall.

### **LifeSpan Waiver Update**

- **Managing Confidentiality of Waiver Applications**

Columbus has a general Health Insurance Portability and Accountability Act (HIPAA) compliance policy and a Delaware specific HIPAA policy as it relates to how Columbus safeguards the protected health information obtained in the course of providing case management services. When a Waiver application is received, the navigator is required to scan the paper application and save the scan as an electronic document. The paper application is then to be shredded. When a navigator leaves employment, the employee's computer is electronically "wiped clean" of all information.

DDDS is aware of feedback from families advising they are being asked to resubmit information that was previously sent to their Community Navigator. After researching these claims, DDDS has discovered examples whereby families have been asked to resubmit information. Most of these examples can be attributed to employee turnover and the policy to "wipe" the computer hard drives. Other situations were shown to be related to a request by the Division of Medicaid and Medical Assistance (DMMA) to update documents versus a request to resend the same documents. DMMA reserves the right to ask for any information at any point while reviewing application. Therefore, if three months to current bank statements and wage information was submitted mid-month, DMMA may request another month of documents from applicant. DDDS is working to ensure that applicants understand the process from the beginning, so they will be prepared.

To improve the waiver enrollment process, Columbus proposed hiring five Lifespan Waiver support specialists that will only assist with Lifespan Waiver enrollment and act as a single-point of contact for Lifespan Waiver processing. These staff will be trained in how to complete the Lifespan Waiver application and to support families as they move through all steps of the process.

Implementing this new approach is expected to also have a positive impact on turnover rates. Community Navigators have struggled with balancing the Lifespan Waiver enrollment process and supporting person-centered planning and crisis management activities. Removing the Lifespan Waiver enrollment activities from the duties assigned to Community Navigators will enable them to focus on person-centered planning and crisis management. The Lifespan Waiver Support Specialists will focus on managing the Lifespan Waiver enrollment process and helping families to understand the complexities of eligibility and tracking each applicant as he/she moves through the application process.

For new applicants, Columbus assigns an "intake" person to family who explains process, asks for pressing issues and introduces family to the Community Navigator. The intake person will brief the assigned Community Navigator on any pressing issues, so he/she are prepared to address those issues at the first meeting with the family.

DDDS approved these new proposals submitted by Columbus to improve service delivery, service recipient/family satisfaction and to reduce Community Navigator turnover rates.

Council requested base percentage of Columbus turnover rate from 2019 to compare with future turnover rates to examine if plan is having the desired result and improving turnover rates.

As part of the Columbus recruitment process, Columbus has decided to stop “pooling” potential candidates. Instead of developing a pool of future candidates who are placed on standby until a new staff vacancy occurs, Columbus will engage in a rigorous recruitment and hiring process as vacancies occur. This decision is based on their analysis revealing that employee level of commitment was significantly different for those employees who were immediately hired versus those who waited in a candidate “pool”.

The Columbus Training Administrator has revised training and shadowing from one week of classroom training to two weeks and has added two full weeks of job shadowing with experienced Community Navigator. It may take a little longer for new applicants to receive a Community Navigator, but the Community Navigators will be properly trained and better able to respond to the needs of the service recipients and families.

DDDS evaluates The Columbus Organization’s overall performance according to specific Lifespan Waiver performance measures and contractual requirements. Columbus’ performance with regard to completing the development of person-centered plans as required was over 90% for the fourth quarter of state fiscal year 2019.

DDDS has discovered several examples of families reaching out via email but sending the email to an incorrect email address. Council was asked to inform people who may approach them for help that the new state email domain is @delaware.gov; not @DE.gov.

### **DDDS Task Force**

The last meeting was held on December 18, 2019, with report due in January. Members of the DDDS Task Force indicated that they want to continue with sub-committees work even through the initial Senate Concurrent Resolution had indicated that meetings would end in December with the report due in January. Senator Hansen advised she would ask for a new resolution to extend through the month of June as soon as legislative session begins.

### **DHSS Strategic Planning Process – deferred**

### **DDDS Focus Groups – deferred**

### **DDDS Proposed Legislative Changes**

- **Reportable Incident Regulation (Lauren Maguire, DAG)**  
Lauren Maguire, DAG attended the meeting and offered packet of 24 Del. C. § 1768 and examples of caselaw supporting the statute for distribution to Council members. The packet is the same packet shared with members of the DDDS Task Force on September 11, 2019. The statute pertains to peer review privilege. DDDS reportable incident investigations are protected by the peer review statute.

The intent of 24 Del. C. § 1768 is to ensure investigations are fruitful and remain confidential. Reporters and witnesses are assured that his/her statements will be confidential, and Providers can engage in open and honest quality improvement activities without fear of reprisal.

DDDS shares an investigation summary with Providers when DDDS is the investigator of record. Providers may opt to release investigation information to families. Providers in attendance at the Council meeting advised they were not aware they could share information. DDDS will consider how best to inform Providers.

Council members expressed concern about not having access to investigation details. DDDS understands the expressed concerns but must balance the understandable desire by families to know what is happening with their family members with the need to protect the investigative process and ensure open and honest investigations. After much discussion, Council found the ability for Providers to share information to be promising.

- **Eligibility and Appeal Regs – deferred**

- **DHSS Ability to Pay Regulation**

When a person becomes eligible for a Medicaid program such as the Lifespan Waiver whereby the allowable income limit is higher than traditional limits for Medicaid, any income over and above the traditional limit is subject to Ability to Pay. This is a federal requirement also referred to as Post Eligibility Treatment of Income; 42 CFR section 435.735. <https://www.govinfo.gov/content/pkg/CFR-2010-title42-vol4/pdf/CFR-2010-title42-vol4-sec435-735.pdf>

Regular Medicaid limits financial eligibility to 133% of the federal poverty level; however, financial eligibility for the Diamond State Health Plan Plus Program (DSHP+) and the DDDS Lifespan Wavier is 250% of the federal benefit rate. The difference equates to approximately \$1100 per month vs \$1900 per month. The threshold for financial eligibility for these two Home and Community Based Waiver programs is much higher than traditional Medicaid. In the Medicaid statute, anyone in a category where his/her income is above 133% of federal poverty level and below the 250% federal benefit rate is assessed a patient liability amount so he/she can contribute toward his/her cost of care. The reasoning is that you have income above the average Medicaid participant and therefore, you can contribute to your care.

Medicaid applies the income exclusions as outlined in 42 CFR 435.735 to determine if the person owes money for cost of care when his/her income is between 133% of the federal poverty level and 250% of the federal benefit rate. Depending upon the income amount and the different income exclusions, a person may be assessed a patient liability amount. DDDS has restricted this requirement to only include people who receive Residential Habilitation services and live in a provider managed setting. A similar restriction applies for people who are enrolled in the DHSP+ Waiver; patient liability is only assessed if a person lives in a nursing or assisted living facility. If someone lives in their own home or a family home, patient liability does not apply.

All patient liability funds collected are sent to Medicaid. In July 2019, the Medicaid claims processing system was upgraded to automatically deduct patient liability from the payment made to Residential Habilitation Service Providers. This means that if a service provider is owed \$1000 monthly for services delivered and the service recipient has a \$100 patient liability amount, the provider will only receive a payment of \$900 because the system automatically deducts \$100. The provider must then bill the service recipient

for the remaining \$100. Providers are currently working out the process to bill service recipients/guardians/representative payees for patient liability.

Service recipients/guardians/representative payees should receive letter from Medicaid annually regarding patient liability if the service recipient has been assessed a patient liability amount.

Stacy Watkins, Assistant Director of Community Services for Operations is developing a “one pager” surrounding patient pay (what it is and how it applies to people receiving residential habilitation). Patient pay falls under DMMA; therefore, DDDS requires permission from DMMA before releasing this kind of document. Ms. Watkins would like Council’s feedback of the “one pager” (if understandable, missing information, etc.) once completed.

### **Letter to Families Re: Cost of DDDS Services**

DDDS has internally discussed sending a letter to families/guardians detailing the cost of care for the family member who is supported by DDDS and funded for Home and Community Based Services. Some families do not understand that by enrolling people in the DDDS Lifespan Waiver, it enables DDDS to leverage federal funds and serve more people.

Occasionally, through conversation cost of care is revealed and families are usually surprised to hear how much services cost. DDDS is considering sending this information yearly to all service recipients/families and/or guardians. The information would only include individual cost of care based on the services authorized for the person. Council recommended including a contact person and number in the letter. Draft letters are being reviewed and DDDS plans to share draft once complete for Council’s feedback. Council member thinks many people may compare letters and advised DDDS to be sure to inform Columbus of the plan and discuss how best to respond before mailing since the letters may prompt calls to Columbus staff.

### **Other Business/Announcements**

Terry Macy’s “thank you” card for his retirement well wishes was circulated to Council members.

Cory Nourie, DDDS Director of Community Services was introduced to the Advisory Council members. Cory most recently worked at Nemours (A.I. Dupont) where she created a program to support young adults transitioning from care with Nemours to adult care. Prior to working at Nemours, she worked at U of D, Center for Disabilities Studies (CDS) for approximately 12 years. At CDS, she managed federal grant programs related to supporting young adults in transition and self-advocacy. She also taught classes for Direct Support Staff (DSP) such as New Visions and a historical review of services for people with intellectual/developmental disabilities. Cory worked as a DSP while in college with Chimes (as an employment specialist) and with Dungarvin, supporting men with Autism in their home. Cory has always been a part of Delaware’s disability community and is excited about the opportunities at DDDS. Cory has a master’s degree in social work and a master’s degree in law and social policy from Bryn Mawr. She completed her undergraduate work at UD in Disabilities Studies and Sociology.

Cory is currently scheduling one on one meetings with all Community Services staff and will be coordinating visits with DDDS providers. Council members would like Cory to present her ideas for the future after she is finished meeting with DDDS staff and touring provider sites.

Council member asked DDDS to report how many residential sites are fully accessible. SIE is looking to see if this data is captured in the electronic tracking system, Harmony. Data may not be easily quarriable but is obtainable. DDDS to determine how to do gather data without requiring weeks of compiling data manually.

Council member asked about the vacant Director of Service Integrity and Enhancement position. DDDS has not posted the vacancy to date. DDDS sought to revise the job description to more accurately describe the position and attract qualified applicants. The requested amendment was sent to the Department of Human Resources reclassification section. DDDS has been advised that unless we ask for the request to be escalated as a priority, the request will not be acted upon soon. Therefore, DDDS moving forward with job description as is to prevent any additional delay.

Council member asked if DDDS had plans to amend the approved Waiver. DDDS advised there was no plan to immediately amend the Lifespan Waiver, but that DDDS is in the process of amending the Pathways HCBS state plan amendment to remove the upper age limit. DDDS and DMMA has also discussed a possible plan to mirror Pathways income eligibility to DSHP+ income eligibility; however, this is still in the evaluation phase. Council member was asked if they were actually referring to the Delaware Statewide Transition Plan that outlines Delaware's approach to come into compliance with the HCB settings rule issued by CMS in January 2014. CMS approved Delaware's Statewide Transition Plan in 2017. DDDS is continuing to implement the plan and to work achieve compliance with the final settings rule. In early 2019 CMS sent revised guidance regarding settings that isolate. DDDS is reviewing revised guidance to ensure that the process DDDS took is able to satisfy CMS' revised guidance. While DDDS intends to meet with providers to review this new guidance, this is not expected to be a rigorous or extensive process.

### **Public Comment**

Terry Olson, Executive Director from the Arc of Delaware, reported that he is fearful of the "alarmingly low" number of accessible homes. DDDS recently held a small workgroup with a number of Residential Habilitation service Providers and members of the Arc of Delaware to discuss and develop a "New Site Development" process. This process will outline how new residential sites are reviewed and approved. The concern about accessible homes was briefly discussed during this work group. While the New Site Development procedure must include an expectation that all homes fully meet the needs of those persons who intend to live in the home, DDDS will discuss internally how best to ensure residential sites include features that allow the homes to be fully accessible.

### **Adjournment**

Meeting adjourned at 12:02 p.m.

### **Next Meetings**

February 20, 2020	10 a.m. – 12 p.m.
March 19, 2020	10 a.m. – 12 p.m.
April 16, 2020	10 a.m. – 12 p.m.